

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 5-10, 13 and 23-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luberto (US 5725146 A) in view of Price et al. (US 4345393 A; hereinafter Price).

Regarding claims 1, 8, 9, 13, 23-25, 29 and 30, Luberto teaches a container and blank for making including: a main panel (12) having a plurality of substantially straight edges about its periphery (14, 16, 18 and 20), each edge extending angularly from each of two adjoining edges (see Fig. 1); a plurality of side walls (32 and 46) depending from at least half of the edges of said main panel, said edges having side walls (see Fig. 4); a base panel (Luberto; 12) and a cover panel (Luberto; 105) one or more of said side walls having an outer wall panel (41) and an inner wall panel (43), said outer wall panel extending from a proximal fold or score line (14) along a remaining edge and said inner wall panel extending from a distal fold or score line (42) remote from the proximal fold or score line and along an opposed edge of said outer wall panel (see Fig. 4). The combination of the inner and outer side panels form a roll over wall of double thickness. Luberto lacks a removable portion from one of said sidewalls.

Price teaches a carton having detachable promotional coupon wherein one or more of the walls further include one or more removable portions (22 or 23) that serve as a coupon, advertisement or any other promotional material (Col 2 lines 15-22). Removal of said coupon from the outer panel (18) leaves a remaining inner panel (16). It would have been obvious to one skilled in the art at the time of applicant's invention to include such promotional features on the outer wall panel of Luberto's pizza box so that the product would be more attractive to the consumer as taught by Price. Furthermore, since Luberto teaches of sidewalls that are of double thickness it would be obvious to one skilled in the art that the strength of the overall box would not be compromised significantly if only the outer wall ply contained the removable coupons, since the remaining inner panel would still be intact.

Regarding claims 4 and 26, Luberto, as modified above, teaches a container with double wall thickness (Luberto; inner wall panel 43 and outer wall panel 41) wherein only one panel has a removable section for a consumer coupon (Price; 22 or 23), leaving an intact inner wall panel and structurally sound box. It would have been obvious to one skilled in the art at the time of applicant's invention to place said removable coupons on the outer side panel rather the inner side panel so that the promotional material would be viewable to the consumer (Countee; Fig. 2).

Regarding claim 5, Luberto, as modified above, teaches a container in which the removable portion (Price; 22 or 23) or portions are arranged with a perforation line (Price; 24) or line of weakness to facilitate removal from the remaining wall portion and inner wall panel and the remaining outer wall portion together with the inner wall panel,

which is left intact after removal of the removable portion (as explained in the rejection of claims 1 and 4 above), retain sufficient structural integrity that the container remains stackable (Luberto; Col 4 lines 5-15) and performing its function in retaining the heat and/or freshness of its contents when enclosed therein.

Regarding claims 6 and 27, Luberto, as modified above, teaches a container wherein the removable portion includes a slit, or cut (Price; 28) providing a tab (Price; 30) to facilitate easy removal of the coupon from the outer wall panel (Price; Col 4 lines 28-36). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to further modify Luberto's container to include a slit providing a tab on the removable coupon portion so that the removal of said coupon is more easily facilitated as taught by Price.

Regarding claims 7 and 28, Luberto, as modified above, teaches a container wherein tabs (Luberto; 52 and 54) or the like are provided on the lower surface or edge of the container (Luberto; see Fig. 2) and serve the added purpose of allowing the assembled container to sit off a surface to allow for the circulation of air.

Regarding claims 10 and 31, Luberto, as modified above, teaches a container wherein the sidewalls are at equal angles to each adjoining sidewall (Luberto; Fig. 2 shows side wall meeting at right angles to one another) and the side walls have substantially parallel edges such that the main panels are close to a substantially parallel spaced apart disposition, there being three side walls which together with the joining panel (Luberto; 76) constitute a four-sided carton forming a square or rectangular prism and the side walls and joining panel have dimensions selected for the

packaging of pizza style pies (Luberto; Fig. 1), and may include ventilation holes (Luberto; Col 2 lines 25-27), corner reinforcing tabs (Luberto; 68, 70, 80 and 82), simple single-paneled side walls (Luberto; 60) on the main panel not having the roll-over walls and such like as desired.

7. Claims 11 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luberto in view of Price as applied to claims 1 and 23 above, and further in view of Uffmann (US 6153280 A).

Regarding claims 11 and 32, Luberto, as modified above, teaches everything except a removable portion with magnetic material to permit the removable portion to be temporarily attached to a metallic surface. Uffmann, however, teaches a magnetic card with perforations (58) that allow the panel (54) to be attached to a metallic surface via magnet (56). Therefore, it would have been obvious to one skilled in the art at the time of applicant's invention to further modify Luberto's pizza box to include magnetic strips on the removable coupons so that the coupons could be placed on a refrigerator (Uffmann; Col 1 lines 14-17).

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1, 4-10, 13 and 23-32 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shin (US 4648548 A); Evers (US 5236084 A) and Countee, Jr.

(US 5074462 A). These references teach containers comprising tear-away coupons integral with a wall of the container.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **CHRISTOPHER DEMEREE** whose telephone number is (571)270-1982. The examiner can normally be reached on Mon-Fri, 8:00 AM-5:00PM, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3782

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 3782

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